



The Gazette of India

13-6-57

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 313] NEW DELHI, MONDAY, JUNE 10, 1957/JYAISTHA 20, 1879

ELECTION COMMISSION, INDIA,

NOTIFICATION

New Delhi, the 1st June, 1957.

S.R.O. 1929.—In pursuance of the provisions of Sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 453 of 1957, presented to the Commission on the 4th May, 1957, under section 81 of the said Act, by Shri Prabhucharan, son of Jhunnoo, Resident of Ward 3, Ghoghar, Rewa, Madhya Pradesh, calling in question the election to the House of the People from the Rewa constituency of that House of Shri Shiv Datt alias Shri Shiv Datt Upadhyay, Resident of 93-D, South Avenue, New Delhi.

Presented to me by Shri Prabhucharan whose signature has been obtained in the margin and attested as having been signed before me this the fourth day of May One Thousand Nine Hundred and Fifty Seven.

(Sd.) PRABHUCHARAN

Attested.

(Sd.) DIN DAYAL

(Sd.) DIN DAYAL

4-5-57.

Under Secretary,
Election Commission, India.

BEFORE THE ELECTION COMMISSION, NEW DELHI.

Election Petition under Part VI of the Representation of the People Act, 1951.
ELECTION PETITION NO. 453 OF 1957.

In the matter of Election from the Rewa Parliamentary Constituency in the State of Madhya Pradesh.

And

In the matter of Prabhucharan son of Jhunnoo, a resident of Ward 3, Ghoghar, Rewa in the State of Madhya Pradesh—Petitioner.

Versus

Shri Shiv Datt alias Shri Shiv Datt Upadhyay resident of 93-D, South Avenue, New Delhi, the returned candidate—Respondent.

The Petitioner, above-named most respectfully sheweth.

1. The Petitioner is an elector being enrolled a voter in the Rewa Parliamentary Constituency in the State of Madhya Pradesh. He is also a member of the Socialist Party of India.

2. By a Notification, on the 18th January, 1957, the Parliamentary and Assembly Constituencies of Rewa in the State of Madhya Pradesh were called upon to elect members to the House of the People and the State Assembly of the State.

3. The result of the election from this Rewa Parliamentary Constituency was declared on the 22nd March, 1957, and the Respondent was declared duly elected to the House of the People.

— 4. The votes polled by the contesting candidates at the election were as follows:—

Names of candidates	Party	Symbols allotted	Votes polled
1. Shri Achhela Singh . . .	P.S.P.	Hut	15903
2. Shri Bhola Nath . . .	Independent	Bow and arrow	3667
3. Srm. Mitra Rama . . .	Socialist Party but officially designated 'Independent' . . .	Tree	21381
4. Shri Ram Kumar Sastri . . .	Independent . . .	Rising sun	25658
5. Shri Ram Sajwan Singh . . .	Independent . . .	Boat	8902
6. Shri Shiv Datt . . .	Congress . . .	Two bullocks with yoke on	41745
7. Shri Hira Lal . . .	Independent . . .	A cultivator winnowing grain . . .	11643
8. Shri Hukum Chand . . .	Jap Sangh . . .	Lamp (Deepa)	11489

5. The aforesaid Parliamentary Constituency of Rewa comprised of seven Constituencies for the State Assembly of Madhya Pradesh, hereinafter called "base constituencies", viz., (1) Rewa, (2) Guhr, (3) Chitrakoot, (4) Sirmaur, (5) Mauganj (double-member), (6) Mangawan and (7) Teonthar.

6. The polling for the elections to the House of the People and to the State Assembly took place simultaneously. Each polling station has two polling sections one for the State Assembly and the other for the House of the People.

7. The particulars of contesting candidates for the seven State Assembly Constituencies comprised in Rewa Parliamentary Constituency are:—

Name of the base constituencies	Name of candidates	Whether Independent or the Party to which the candidates belonged.	Symbol allotted	Votes polled
1	2	3	4	5
1. REWA . . .	1. Joshi, Jagdish Chand	Socialist Party but officially designated 'Independent'	A cultivator winnowing grain	5032
	2. Narayan . . .	Independent . . .	Tree	798
	3. Balwant Singh . . .	Ram Rajya Parishad	Rising Sun	2425
	4. Ram Gopal . . .	Jap Sangh . . .	Lamp (Deepa)	1622
	5. Siddha Vinaik . . .	P.S.P.	Hut	397
	6. Shatrughan Singh . . .	Congress . . .	Two bullocks with yoke on	4070

	1 -	2	3	4	5
II. GUHR	.	1. Kashi Prasad (Retired). 2. Gopal Sharan Singh. 3. Dharamdas 4. Brijraj Singh 5. Mohan Singh 6. Viswanath Prasad 7. Shivnath Prasad	Independent Ram Rajya Parishad P.S.P. Congress Independent Socialist Party but officially designated 'Independent' Jan Sangh	Cycle Rising sun Hut Two bullocks with yoke on. A cultivator win- nowing grain Tree Lamp (Deepa)	1422 541 2555 2083 2663 2910
III. CHITRAKOOT	.	1. Kausaledra Pratap Bahadur Singh 2. Jageshwar Prasad (Retd.) 3. Raj Kishore 4. Ram Kumar 5. Ram Chandra 6. Ram Sajiwani	Ram Rajya Parishad P.S.P. Jan Sangh Socialist Party but officially designated 'Independent' Congress Independent	Rising Sun Hut. Lamp (Deepa) Tree Two bullocks with yoke on. A cultivator win- nowing grain.	7997 3097 1446 6184 1016 624 1762
IV. SIRMAUR	.	1. Aditya Pratap Singh 2. Indra Bahadur Singh 3. Chandra Kishore 4. Champa Devi 5. Jamna Prasad 6. Moradhwaj Singh 7. Ram Gopal 8. Ram Nihar 9. Hiralal	Ram Rajya Prasad Independent Socialist Party but officially designated 'Independent' Congress P.S.P. Independent Independent Independent	Rising Sun Camel Human Hand Two bullocks with yoke on. Hut Ladder Cycle Tree A cultivator winnowing grain	4984 4982 2955 2496 808 493 7597 2770 4736 5386 4594 1938 1206 5267
V. MAUGANJ (double-member constituency).	.	1. Achutanand 2. Keshari Singh 3. Jagdish 4. Jagdish Prasad 5. Pudu 6. Brij Basi 7. Badka 8. Bhuvaneshwar Prasad alias Ishwaracharya. 9. Ramal	Socialist Party but officially designated 'Independent' P.S.P. Independent Independent Independent Ram Rajya Parishad Jan Sangh Independent Ram Rajya Parishad P.S.P.	A cultivator winnowing grain Hut A twig with two leaves Tree Rising Sun within a thick black circle Lamp (Deepa) Cart Rising Sun Hut enclosed within a thick black circle.	7597 2770 4736 5386 4594 1938 1206 5267 1355

I	2	3	4	5
MAUGANJ (double-member constituency— <i>contd.</i>)	10. Sahadev 11. Sahadeo 12. Sadhu 13. Shivbehari 14. Someshwar Singh	Socialist Party but officially designated 'Independent' Congress	Human Hand . Two bullocks with yoke on enclosed within a thick black circle . Bow and Arrow Cycle . Two bullocks with yoke on .	2867 6639 1338 1736 7500
VI. MANGAWAN	1. Keshao Prasad 2. Jamuna 3. Manbodh Singh 4. Rajdhari 5. Ram Chandra 6. Rukmniraman Pratap Singh 7. Shriniwas	Congress P.S.P. Independent Independent Ram Rajya Parishad Independent Socialist Party but officially designated 'Independent'.	Two bullocks with yoke on Hut Tree Camel Rising Sun Cycle A cultivator winnowing grain	2960 1275 3819 2853 956 6835 3960
VII. TEONTHAR	1. Bansipati Singh 2. Mahavir Singh 3. Rana Shamsher Singh 4. Ram Pratap Ram 5. Lalta Prasad	Congress Socialist Party but officially designated 'Independent'. Independent P.S.P. Ram Rajya Parishad.	Two bullocks with yoke on Tree A cultivator winnowing grain Hut Rising Sun	7142 3426 3122 2406 4447

8. The seven base constituencies for the Assembly of Madhya Pradesh within the Rewa Parliamentary Constituency returned eight members, one of them being a double-member constituency.

9. On the 24th November, 1956, the Election Commission issued a Press Note on "National and State Parties recognised by Election Commission in there-organised States, Reservation of Symbols", and declared that "the four National Parties now recognised, viz., The Indian National Congress, The Praja Socialist Party, The Communist Party of India and Bharatiya Jan Sangh, will therefore continue to be recognised and the same symbols will continue to be reserved for them on an All-India-basis". Besides the uniform symbols reserved for recognised parties for Parliamentary and State Assembly constituencies the Election Commission also reserved symbols for various parties at the State level.

10. The Socialist Party of India which was reformed in 1955 by Dr. Ram Manohar Lohia was not accorded recognition by the Election Commission for reservation of specific symbol as aforesaid. The candidates of the Party were dubbed by the Election Commission as Independent candidates and were thus denied even the name of the Party and the Party candidates had to go to the Poll under the distorted official name of Independents.

11. In the last General Elections, the candidates of the Socialist Party of India contested all the nine seats in the Rewa Constituency, viz., one seat for the House of People and eight seats for the base constituencies for the Assembly. The candidates of the Party all indicated their first preference 'Tree' in the nomination

paper and that was the symbol which was adopted as the Party symbol of the Socialist Party and this was mentioned in the Election Manifesto of that Party. Arbitrarily, unfairly and illegally the following symbols were allotted by the Returning Officers to the candidates of the Socialist Party:

For the House of the People Constituency

Symbol—Tree

For the Assembly Constituencies

Three Symbols—1. Tree (3 constituencies).

2. Cultivator winnowing grain (three constituencies).

3. Human hand (two constituencies).

In some of the base constituencies, viz., Rewa, Sirmaur, Mauganj and Mangawan, candidates other than those of the Socialist Party were allotted the symbol 'Tree'. At the same time contesting the Parliamentary Constituency there was an Independent candidate who was allotted the symbol 'A cultivator winnowing grain'.

12. The aforesaid arbitrary and perverse allotment of symbols required the Socialist Party of India to publicise a multiplicity of symbols, one for the House of the People and other for the Assembly seats. Three different symbols were allotted to the candidates of the Socialist Party of India in the double-member base constituency of Mauganj one for the Parliamentary candidate and two for the Assembly candidates inasmuch as different symbols were allotted to the candidates of the Party for the general and reserved seats. The greatest confusion was created because some rival candidates were allotted the 'Tree' symbol in some Assembly Constituencies. This meant a paralysis of a coherent Election Campaign among the voters the overwhelming majority of whom were illiterate and could only go by symbols. This was a discrimination which was unfair and hostile against the Socialist Party of India and its candidates who could not conduct any integrated Election Campaign.

13. Symbols have to be allotted to candidates at elections because of the illiteracy of a large section of the electorate in India. The voters are canvassed on the basis of the symbol assigned. The Congress Party could organise easily a coherent and integrated campaign because all its candidates including the Respondent, both for Parliament and the Assembly seats had the same symbols. Voters have to be familiarised with election symbols assigned to a candidate so that a voter may identify the candidate's ballot box with the symbol pasted on it.

14. The overwhelming majority of electors of the Rewa Parliamentary Constituency are not literate and they were guided in the exercise of their franchise by a symbol.

15. It became next to impossibility for candidates of a Party unrecognised by the Election Commission, like the Socialist Party of India, to make illiterate voters understand within the limited period between the allotment of symbol and the date of polling that they were to cast their vote for one symbol when they vote for the Parliamentary candidate of the Party and for another symbol when they vote for the candidate of the same party for the Assembly. This was more so because the polling was going on simultaneously. The voters were thus misled and confused in the matter of the free and fair exercise of their electoral franchise. The fact that the same symbol stood for independent candidates in contiguous base constituencies within the same Parliamentary Constituency only added to the confusion. In the double-member constituency the confusion was worse compounded.

16. The practise of giving recognition to some parties and denying it to others by the Election Commission resulted in unconstitutional and hostile discrimination and imposition of inequality in the matter of free and fair elections.

17. By reserving symbols to the so-called recognised parties undue advantages have been given to them over the un-recognised parties who have been denied the constitutional pledge or guarantee of equality before the Law and the equal protection of the Law:

(a) the recognised parties could popularise their symbols which are uniform both for the Parliamentary and Assembly Constituencies amongst the voters for several years prior to the elections, whereas un-recognised parties and Independent candidates could do so for a few weeks only, that is between the allotment of symbols after acceptance of nomination and the date of polling. Thus one citizen or a set of citizens secured the advantage of permanent publicity to his or their

symbol while another citizen had to content himself with about three weeks' publicity. The Petitioner craves leave to refer to the Press Notes issued by the Election Commission in this behalf from time to time.

(b) the recognised parties having reserved symbols did not suffer from the handicap of familiarising the voters with two different symbols simultaneously one for the Parliamentary and the other for Assembly Constituencies and three symbols simultaneously in a double-member constituency.

(c) in the case of the recognised parties there is no risk of confusion of symbols by the voters.

18. There is another discrimination practised by the Election Commission in that it supplied two copies of the voters' list free for all the constituencies to the candidates of the recognised parties only and the other parties of their candidates had to pay heavily for such lists.

19. The recognition of parties by the Election Commission and conferring upon them the benefits as to reservation of symbols and other matters as stated hereinbefore has been wholly arbitrary, discriminatory, unconstitutional and invalid and the election of the respondent from the Rewa Parliamentary Constituency having been conducted in violation of the fundamental right of equality and Equal Protection of the Law on this unconstitutional basis is void.

20. Section 100 (1) (d) (iv) of the Representation of the People Act, 1951, in so far it requires that the result of the election has been materially affected even when the election has been held without complying with the provisions of the Constitution is *ultra vires* the Parliament. Such an election is void whether or not the result of the election is materially affected.

21. By non-compliance with the provisions of the Constitution in particular Part III thereof and specially Articles 14 and 326, there has been no fair and free election in respect of the Parliamentary Constituency of Rewa. The voters had been confused and misled in casting their votes and the result of the elections of the Respondent who was set up by the Indian National Congress, a recognised party, has been materially affected.

22. The Representation of the People Act, 1951, does not authorise the Election Commission to give recognition to any party at all or to one party and not to another. The Press Note issued by the Election Commission, dated the 24th November, 1956, was and is illegal, unconstitutional and repugnant to the spirit of the Constitution and the Representation of the People Act, 1951, and is in excess of powers and was and is void. The election of the Respondent has not been a free and fair one the result of the elections has been materially affected in so far it concerned the Respondent for non-compliance of the Act.

23. Rules 5 and 10 of the Representation of the People (Conduct of elections and election petitions) Rules 1956 deal with the powers of the Election Commission in the matter of choice of symbols by candidates and allotment of symbols. The Election Commission, it is submitted, has no power under the Rules to give recognition to parties and then reserve symbols for them and extend to them other facilities and thereby discriminate one citizen against another in their candidature at elections and confuse and mislead the electors. There has been non-compliance of the Rules made under the Representation of the People Act, 1951. In fact the voters of the Rewa Parliamentary Constituency have been confused and misled in casting their votes. But for this confusion the Respondent could not have been returned at the election.

24. In the alternative it is submitted if the said Rules in any way confer power on the Election Commission to recognise parties and reserve for them symbols the said Rules are also unconstitutional and are *ultra vires* the Representation of the People Act, 1951 and the Constitution of India. Further the delegation of power on the Election Commission by the Rules is unreasonable, arbitrary and void.

25. The Petitioner is enclosing with this petition a deposit receipt for Rs. 1,000 made by him in the Reserve Bank of India, New Delhi, in favour of the Secretary to the Election Commission, as security persuant to Section 117 of the Representation of the People Act, 1951.

In the promises it is prayed that this petition be referred to an Election Tribunal for trial and for

- (a) an order declaring the election of the Respondent to be void; and
- (b) Costs.

PRABHUCARAN,
Petitioner.

Encl: 1 challan No. 997.

Verification

I, Prabhucaran, the Petitioner do hereby solemnly declare that the statements in the Petition made in paragraphs 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23 are true to my knowledge and those in paragraphs 2, 9, 18, 24 are true to my information and belief.

Verified this the 4th day of May, 1957, at New Delhi.

Sd. PRABHUCARAN.
Petitioner.

[No. 82/458/57.]
By Order,
DIN DAYAL, Under Secy.

